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36.12.120 BASIN CLOSURE AREA EXCEPTIONS AND COMPLIANCE

(1) In the numerous basin closure areas in Montana, the department cannot process an application unless it qualifies as a basin closure exception.

(2) An applicant must provide a written summary of their application information explaining how their application meets the basin closure exceptions and why their application located in a basin closure area can be processed.

(3) The department will determine whether an application in a basin closure area can be processed based on the information received from the applicant and will document its findings before it will review the application to determine whether it is correct and complete.

(4) While the department may determine that an application located in a basin closure area can be processed, an objector is able to refute the department's determination.

(5) An applicant must identify the potentially closed area and provide a map depicting that area.

(6) A net depletion analysis must be submitted with the water right application and must include but is not limited to analysis of the following factors within the potentially affected area:

(a) evidence addressing the hydraulic connection between the source aquifer and all surface water. Surface water means, in addition to ARM 36-12-101(64) and for the purposes of 85-2-360 through 85-2-362, MCA, includes but is not limited to irrigation canals and drains;

(b) evidence of propagation of drawdown from pumping a proposed well or other groundwater diversion and volume, rate, timing, and location of any resulting surface water effects;

(c) evidence of the comparison of the proposed flow rate and period of diversion to similar types of existing water uses;

(d) estimates of the monthly volume of water consumed by a proposed project through evaporation, evapotranspiration, and all other forms of consumption associated with the proposed project;

(e) an assessment of potential return flows to a source aquifer or surface water source and the volume rate, timing, and location of return flows;

(f) in addition to ARM 36.12.101(56) and for the purposes of 85-2-361, MCA, return flows includes but is not limited to any treated wastewater if the treated wastewater will be used as part of an aquifer recharge plan;

(g) the volume, rate, timing and locations of accretions to surface water that is not consumed and subsequently returns to surface water; and

(h) a water balance table must be included that describes the monthly and total annual water balance for the proposal.

(7) An applicant must provide a list and map of the points of diversion of surface water appropriation rights and groundwater rights on record with the department that are located within the potentially affected area.

(8) Information required by the hydrogeologic assessment may not be sufficient to meet applicable criteria under 85-2-311, MCA, including but not limited to adverse effect to a prior appropriator. The applicant for a beneficial water use permit pursuant to 85-2-311, MCA, is responsible for providing sufficient evidence to meet all applicable criteria. (History: 85-2-113, MCA; IMP, 85-2-301 through 85-2-319, 85-2-321 through 85-2-323, 85-2-329 through 85-2-331, 85-2-335 through 85-2-338, 85-2-340 through 85-2-344, 85-2-350, 85-2-351, 85-2-401, 85-2-402, 85-2-407, 85-2-408, 85-2-410 through 85-2-413, 85-2-415 through 85-2-419, 85-2-436, 85-2-437, 85-2-439, 85-2-501 through 85-2-512, 85-2-601 through 85-2-606, 85-2-608, 85-2-804 through 85-2-806, MCA; NEW, 2004 MAR p. 3036, Eff. 1/1/05; AMD, 2008, MAR p. 140, Eff. 2/1/08.)